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10/664,189	09/17/2003	Jonathan Richard Thorpe	282560US8X	3961
22850	7590	12/07/2007		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER DWIVEDI, MAHESH H	
			ART UNIT	PAPER NUMBER
			2168	
			NOTIFICATION DATE	DELIVERY MODE
			12/07/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/664,189

Applicant(s)

THORPE, JONATHAN RICHARD

Examiner

Mahesh H. Dwivedi

Art Unit

2168

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

TIM VO
SUPERVISORY PATENT EXAMINER
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Patent Examiner, AU 2168
12/03/2007

Continuation of 11. does NOT place the application in condition for allowance because: The request for reconsideration filed on 11/09/2007 is acknowledged, but is not persuasive. Applicants argue on page 09 that "it is respectfully noted that Claim 21 is a method claim having two steps...With regard to the use of the term "logic", it is respectfully noted that this is not one of the steps of the claim, but simply recited in the preamble. As a process or method is a statutory class of subject matter, it is respectfully submitted that Claim 21 and Claim 23 are in compliance with all requirements under 35 U.S.C. 101". However, logic is directed towards non-statutory subject matter. Moreover, the fact that it is in the preamble is irrelevant. Applicants argue on Pages 9-10 that "With regard to the objection to the specification...be overcome". The examiner notes that in a future office action, the objections to the specification would be overcome by applicant's arguments. Applicant argues on pages 10-11 that "In Kohonen, the data cannot have been transmitted over a network, but merely have been loaded onto the SGI workstation using a suitable media reader. Therefore, there is only a single system arrangement in Kohonen and not a split system". However, Kohonen states that "patent abstracts that were available on CD ROM's or other electronic media". It is common knowledge that one can download via other electronic media. Moreover, the cited art is directed towards WEBSOM2, which is an internet-based application (just as WEBSOM was). Applicants argue on page 11 that "even if the databases in Kohonen were stored on...the data that would be transmitted would be the raw data stored in the database rather than data derived by the server from the information items stored in the database". However, the examiner wishes to refer applicant to pages 21-22 of the final office action mailed on 08/09/2007 to address this issue. Applicants argue on pages 11-12 that "Thus, in Kohonen, all the processing is carried out by the SGI workstation as a single system. Kohonen teaches away from the claimed invention because all the processing necessary to calculate the SOM is carried out by the same system". However, Applicants are also reminded that in order to disqualify a reference based on a "teach away" reasoning, the reference has to explicitly suggest or disclose the so-called teach away steps - Applicants assertion can not be accepted if it is unsupported by a valid evidence. In this case, the fact of the Japanese patent databases shows that the original abstracts are located away from the workstation. Applicants argue on page 12 that "This advantageously reduces the network traffic between the storage nodes and the client system and reduces the overall processing overhead at the client system. These advantages are simply not relevant in a single system arrangement such as that disclosed by Kohonen. However, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "reduces the network traffic between the storage nodes and the client system and reduces the overall processing overhead at the client system") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).